

**Village of Indian Head Park  
201 Acacia Drive  
Indian Head Park, IL 60525**

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**MINUTES  
VILLAGE OF INDIAN HEAD PARK  
PLANNING AND ZONING COMMISSION  
PUBLIC HEARINGS**

*“Pursuant to 5 ILCS 120/2.06 (3) minutes of public meetings shall include, but need not be limited to: a general description of all matters proposed, discussed, or decided, and a record of votes taken.”*

**Tuesday, May 4, 2010**

**7:30 P.M.**

**CALL TO ORDER -CHAIRMAN DENNIS SCHERMERHORN**

A public hearing was hosted by the Village of Indian Head Park Planning and Zoning Commission on Tuesday, May 4, 2010 at the Municipal Facility, 201 Acacia Drive. Two petitions were presented to the Commission: Zoning Petition #174, a public hearing regarding a text amendment to ***Title 17, Zoning*** of the Municipal Code providing for regulations of highway advertising signs within 330 feet of an Interstate highway providing that highway advertising signs located within B-5 and B-6 zoning districts be authorized by the issuance of a special use permit. Petition #175, was also presented for a public hearing regarding a special use permit application for a highway advertising sign at 11308 West 70<sup>th</sup> Place, Indian Head Park. The meeting was convened at 7:30 p.m. by Chairman Schermerhorn and Kathy Leach, Zoning Commission Secretary, called the meeting to order.

**ROLL CALL: PRESENT (AND CONSTITUTING A QUORUM):**

Chairman Dennis Schermerhorn  
Commissioner Diane Andrews  
Commissioner Noreen Costelloe  
Commissioner Denise Ingram  
Commissioner Earl O'Malley  
Commissioner Jack Yelnick

**ALSO PRESENT:**

Mayor Richard Andrews  
Debbie Anselmo, Zoning Trustee  
Richard Ramello, Village Counsel  
Tom Walsh, Village Consultant from Skytech, Inc.

## PLEDGE OF ALLEGIANCE TO THE FLAG

Chairman Schermerhorn the Planning and Zoning Commission members led the audience in reciting the Pledge of Allegiance to the Flag as follows: ***“I Pledge Allegiance to the Flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all”.***

## QUESTIONS AND/OR COMMENTS FROM INDIAN HEAD PARK RESIDENTS/PROPERTY OWNERS IN ATTENDANCE REGARDING ZONING AGENDA ITEMS

None

### **PUBLIC HEARING HELD BEFORE THE VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION (PUBLIC COMMENTS RECEIVED AFTER DISCUSSIONS BY THE PLANNING AND ZONING COMMISSION MEMBERS AND PRIOR TO VOTES)**

#### **ZONING AGENDA ITEMS:**

- 1. Petition #174 – A public hearing regarding a text amendment to Title 17, Zoning of the Village of Indian Head Park Municipal Code providing for the regulation of highway advertising signs within 330 feet of an Interstate highway by providing that highway advertising signs be located within a B-5 or B-5 zoning district be authorized by the issuance of a special use permit.**

Chairman Schermerhorn noted for the record the following items that were presented as exhibits with regard to Petition #174 and Petition #175: (1) *a zoning petition application (Petition #174) dated April 16, 2010 submitted by the Village of Indian Head Park for an amendment to Title 17, Zoning regarding regulations for highway advertising signs in the B-5 and B-6 Business Districts and (Petition #175) by the Village of Indian Head Park for a special use to allow for a highway advertising sign at 11308 West 70<sup>th</sup> Place;* (2) *a Certificate of Publication notice in the Suburban Life on Wednesday, April 14, 2010, for a text amendment to Title 17, Zoning regarding regulations for highway advertising signs within the B-5 and B-6 zoning districts;* (3) *a Certification of Publication notice in the Chicago Tribune on Monday, April 19, 2010 prepared by Village Counsel regarding a special use for an advertising sign at 11308 West 70<sup>th</sup> Place, Indian Head Park;* (4) *copy of letters to adjacent property owners dated April 15, 2010 sent by Certified mail on April 16, 2010;* (5) *list of adjacent property owners within 330' of the subject property;* (6) *memo to the Public Works Department regarding posting of the zoning sign dated April 14, 2010;* (7) *copy of Resolution #R4-10-4 approved by the Village Board on April 8, 2010 entitled “A Resolution Authorizing the Filing of a Petition to Amend Title 17, Zoning of the Indian Head Park Municipal Code to Regulate Highway Advertising Signs.”*

Mayor Andrews stated that he is present this evening on behalf of the Village Board as the petitioner for both zoning matters that were published that have been presented to the Planning and Zoning Commission for consideration. He noted Petition #174 is a text amendment to Title 17, Zoning of the Municipal Code regarding regulations for highway advertising signs in B-5 and B-6 Business Districts to allow billboard signage in a limited geographic business district area. Petition #175 is a request for a special use to allow for a highway advertising sign at 11308 West 70<sup>th</sup> Place to be constructed on the Village's Municipal Facility site. Mayor Andrews stated that the Village's Building Code, Chapter 15.12, requires signs on a property to pertain only to the business or the purpose where the business is located or conducted on the subject property or within the premises. Mayor Andrews stated that certain signs are permitted in the B-5 and B-6 Business Zoning Districts as an accessory use as regulated by ***Title 17, Zoning, Chapter 17.66*** and the Building Code, ***Chapter 15.12*** which defines requirements for dimensions and construction of signs in those districts. He noted that Title 17, Zoning, of the Indian Head Park Municipal Code does not provide for billboards. Mayor Andrews stated that currently there are some billboards in Indian Head Park that were grand-fathered permitted uses because those signs were established before the Indian Head Park zoning regulations were adopted. Mayor Andrews further stated that the purpose of the request before the Commission at this time is because there has been notice to the Village about constructing billboards. He noted that there is also potential that such billboard signage would also benefit the Village.

Mayor Andrews stated that a text amendment to the zoning code as well as a special use is being requested to provide and incorporate regulations for billboards in ***Title 17, Zoning*** to allow for such signage in the B-5 and B-6 Zoning Districts according to certain standards that need to be met as set forth by an ordinance that would amend the code. Mayor Andrews stated that late this afternoon a letter was received from the offices of the attorney for the Chicagoland Roofers Training Committee (J.A.T.C) located at 7045 Joliet Road, in Indian Head Park. He noted that possibly there might be some misunderstanding of the comments in the letter from the Roofer's Committee attorney and Village Counsel has not had an opportunity to analyze the items mentioned in that letter. He asked the Commission to open the public hearing on both matters, to consider and complete the hearing process on the text amendment and to continue to a date certain Petition #175, regarding a special use to allow for a highway advertising sign at 11308 West 70<sup>th</sup> Place to allow time for Village Counsel to review this matter.

Chairman Schermerhorn noted that a letter dated May 4, 2010 was received by facsimile on May 4<sup>th</sup> addressed to the Planning and Zoning Commission as follows from the offices of Asher, Gittler, Greenfield & D'Alba, Ltd who presents the Chicagoland Roofers Joint Apprenticeship Training Committee at 7045 Joliet Road, Indian Head Park. *"Mr. Chairman and members of the Commission: My name is Marvin Gittler and I am an attorney with Asher, Gittler, Greenfield & D'Alba, Ltd. in Chicago, IL. I write you today on behalf of my client the Chicagoan Roofers' Joint Apprenticeship and Training Committee (JATC) in response to the Planning and Zoning Commission's April 16, 2010 call for public comments.*

*Specifically, I write in regard to the proposal for the zoning text amendments to allow special uses in B-5 and B-6 Business Districts and special use application for a highway advertising sign at 11308 W. 70<sup>th</sup> Place, Indian Head Park, IL (collectively “proposals”). On behalf of my client I urge that the Commission recommend rejection of the proposals. In addition, I urge that the Village Board of Trustees reject the proposals when they come to a vote. Furthermore, I request that this letter be entered into the record of the May 4<sup>th</sup> 2010 public hearing as a formal objection to the proposals before the Board. Please allow me to explain. Acceptance of the proposal may trigger serious legal consequences for the Village, which neither the Commission nor the Board has fully contemplated. To date, the Village, acting in part, through its agent the Mayor, has engaged in a pattern of conduct clearly intended to frustrate my client’s efforts to erect advertising billboards on its own property, which is located at 7045 Joliet Road. Specifically, the JATC applied for a permit to erect multiple billboards because they were approached with a contract by CBS Outdoor, Inc., of which the Village had knowledge. The JATC was approved to erect only a single billboard. Because the JATC was only approved for a single billboard CBS pulled out of the contract with the JATC. After their denial of the multiple billboard permits, the Village asked for a special use permit to erect its own billboard on a tract of land contiguous to the property of the JATC. Under the principle of “Dillion’s Rule” a non-home rule unit of local government possesses only those powers expressly granted to it by the legislature. IICLE Municipal Law Series (Illinois): Volume II: Annexation, Zoning, and Regulatory Authority (including 2009 updates) (citing John F. Dillon Commentaries on the Law of Municipal Corporations. Article 11 Division 13 of the Illinois Municipal Code is instructive and it grants the Village the power to zone only for the limited purposes of organizing and improving the municipality based on the intended purpose for an area of land. 65 ILCS 5/11-13-1. Also, non-Home Rule units of local government are limited to zoning regulations that do not infringe on the “spirit of state law or are repugnant to the general policy of the state.” Hawthorne v. Village of Olympia Fields, 204 Ill.2d 243 (Ill.S.Ct.2003). The Illinois appellate courts have held that the denial of a special use permit must bear a real and substantial relation to the public health or the general welfare. Cornell v. County of DuPage, 58 Ill.App.3d 230 (2<sup>nd</sup> Dist. 1977); American National Bank and Trust Company of Rockford v. City of Rockford (2<sup>nd</sup> Dist. 1977). It is our opinion that the Village of Indian Head Park has denied the Roofers’ Union Joint Apprenticeship and Training Committee a special use permit for multiple billboards to be erected on their tract of land for reasons that do not pertain to public health or the general welfare. We believe the Village sought to capitalize on a stream of revenue that was originally attracted to the area by the J.A.T.C. and interfered with the contract between CBS and the J.A.T.C. The decision to interfere with the contract between J.A.T.C. and CBS also exposes the Village to civil liabilities in this State. For a party to prevail on a claim of intentional interference with a business relationship the plaintiff must establish: (1) the reasonable expectation of maintaining a valid business relationship, (2) defendants’ knowledge of expectancy, (3) the purposeful interference by defendants that prevents plaintiff’s expectancy, and (4) damages resulting therefrom. Callas, Pappa, Jackstadt & Halloran P.C. v. Norfolk & Western Ry. Co., 195 Ill 2d 356 (Ill S. Ct. 2001). With the facts already established and the J.A.T.C. losing revenue from the contract with CBS the J.A.T.C. is more than confident that it will be able to prevail on such a claim if civil litigation were to arise from this matter.*

*Furthermore, it is my opinion that the tort immunity enjoyed by municipal corporations would not apply in this situation as the J.A.T.C. has one (1) year from the date of the cause of action accrued to file this claim. 745 ILCS 10/8-101. In conclusion, the Plan Commission and the Village Trustees should not approve the special use permit for billboards on the property immediately adjacent to the property owned by the J.A.T.C. The decision to approve the Village's proposal after denying the J.A.T.C.'s would be in direct contradiction of the decisions of the Illinois appellate courts and statutes of this State and would expose the Village to civil liability. The specific claims just described are not all inclusive. There exist additional meritorious claims under the Illinois Constitution, Illinois Criminal Code and in Agency law which can and likely would be presented should J.A.T.C. be left with the only choice of litigation. Very truly yours, Marvin Gittler."*

Chairman Schermerhorn stated that it is not up to the Planning and Zoning Commission to determine if there are inaccuracies that may or may not be contained in the letter that was read into the record. The letter was read into the record merely in opposition of the zoning request before the Board.

Richard Ramello, Village Counsel, stated that the Planning and Zoning Commission members received copies of the legal notices published in the Suburban Life and Chicago Tribune regarding both zoning matters before the Commission as well as letters sent to adjacent property owners. He noted letters to adjacent property owners were entered into the public record as exhibits. Counsel Ramello provided an introduction to the Commission concerning regulations for outdoor advertising signs including laws that apply to outdoor advertising signs as well as current Village zoning and sign codes relative to the proposed zoning text amendment. Counsel Ramello stated the following: (1) billboards in the industry are also known as outdoor advertising signs; (2) billboard signage is often located along highway corridors and such signage can present problems if the signs are not adequately regulated; (3) outdoor advertising signs (billboards) sometimes can obstruct views; (4) the signs can be aesthetically objectionable; (5) the signs may encroach on neighboring properties; (6) the signs can visually distract motorists, if left unregulated and; (7) billboards can have a negative impact on the economic growth of a community and can lower property values, if left unregulated.

Counsel Ramello stated that currently the Village's zoning ordinance allows signs in the B1 and B2 Business Districts, which are regulated by size, height, illumination, location and number. In B3 and B4 Business Districts, the zoning code does not provide for signs. He further stated that in the B5 and B6 Business Districts, the Village allows signs as an accessory use to a principle business use on the property but not allowed as a permitted use. Counsel Ramello stated that the current zoning regulation does not allow for a sign to be installed on a vacant lot in a B5 or B6 zoned district where there is no existing business use on the premises. He further noted that certain signs are regulated under **Chapter 15.12** of the Indian Head Park Municipal Code which only allow signs on the premise where there is an existing business use on the property in a B5 and B6 District.

He noted that if someone has an office location in a business district the sign would advertise that business entity on the premise and the code does not allow for outdoor advertising signs that promote another type of business that is not related to the business use on the property. Counsel Ramello stated that the Village Board submitted a petition to the Commission for a text amendment that would amend ***Title 17, Zoning*** to set forth regulations for highway advertising signs in limited locations in the B5 and B6 Business Districts along the Interstate highway corridors which would allow advertising for those off-premise type signs. Counsel Ramello stated that there are off-premise billboard signs in many communities all along the highway advertising a variety of products, activities, events and services that are not located adjacent to the billboards. He noted that currently in the B5 and B6 Districts, regulations are set forth for height, location and size of signs in ***Chapter 15.12***. Counsel Ramello stated that a new set of ordinances are being proposed to provide regulations for highway billboard advertising signs within 330 feet of an Interstate highway within B5 and B6 Business Districts with those signs to be authorized by the issuance of a special use permit. He noted that the concept provided as a text amendment to the Village's Zoning Code would be an "overlay district" which would overlay the regulations in the B5 and B6 zoning districts to create a corridor measured 240 feet from the edge of the Interstate highway Right-of-Way and extending outward a distance of 330 feet. Counsel Ramello stated that the underlying zoning district of B5 and B6 is not being changed and those regulations will still apply with the overlay district to be created and incorporated in those zoning districts.

Counsel Ramello pointed out that the current Village zoning map depicts only a few select areas in the Village that are zoned B5 and B6 Districts which is a triangular area of the Village close to I-55 and I-294 expressways. He noted that the overlay district would extend just in that triangular area and only be 330 feet from the edge of Right-of-way along that corridor. Counsel Ramello stated that billboards within Illinois are regulated by the Illinois Highway Advertising Control Act of 1971, the Illinois Department of Transportation issues permits for outdoor advertising signs that are adjacent to Interstate Highways and those regulations will continue to apply in addition to Village regulations. He noted that the Illinois Department of Transportation controls an area for outdoor advertising signs being 660 feet from an Interstate Highway and the Village is being more restrictive in proposing advertising signs within 330 feet of Interstate highways to bring those signs closer to Interstate highways. Counsel Ramello stated that within an urban area that is an incorporated community, a municipality may choose to regulate outdoor advertising and both I.D.O.T. and the Village regulations would apply. He noted that unincorporated areas have no municipal regulations so only I.D.O.T. regulations would apply in those instances.

Counsel Ramello stated that the proposed ordinance includes a section entitled "Purpose and Intent", which explains the reason for the establishing regulations for outdoor advertising signs. He noted that outdoor advertising signs generate revenue and there are some challenges with ordinances so it is important to set forth reasons for establishing such regulations. Counsel Ramello stated that the "Purpose and Intent" section has been drafted to indicate that the Village has a valid basis on which to regulate and impose this ordinance.

He noted that the purpose of the ordinance is specifically to preserve and improve roadside appearance along Interstate Highways in the Village through the control of outdoor advertising signs along Interstate Highways, to minimize visual distractions to motorists, maintain roadside views of the surrounding area to enhance attractiveness of the area for residents and visitors, to protect property values, protect the public investment in highways and promote overall economic welfare of the Village. Counsel Ramello stated that these are all important governmental interests which the ordinance seeks to protect. He noted that outdoor advertising signs carry the protection of the 1<sup>st</sup> Amendment of the U.S. Constitution which guarantees everyone the right to freedom of speech and outdoor advertising companies enjoy that freedom of speech just like everyone else. He further noted that there is a balance to protect governmental interests with public safety, welfare and economic interests of a Village versus freedom of speech. Counsel Ramello stated that there needs to be a balance without chilling freedom of speech and an ordinance can be struck down by a court if it is determined to be too restrictive.

Counsel Ramello stated that the ordinance must be drafted so that none of the Village officials whether it is the Zoning Board or Village Board can act as a censor and decide that a company must have a specific message on their billboard. He added that the Village is limited to “content neutral” regulations which allows a Village to set forth the size, height, illumination or location of a billboard but not the advertising message on the billboard. He noted that the ordinance is drafted to be content neutral which would not prohibit an advertising company or anyone else who wants a billboard sign to put whatever message they want on the billboard provided the billboard meets other regulations of the Municipal Code. Counsel Ramello stated that a definitions section was also added to the ordinance to clearly detail certain standard technical terms that are commonly used in the billboard industry.

Counsel Ramello stated that the zoning code has permitted uses that allow for certain uses in zoning districts that may only require a building permit, prohibited uses defined in the code would not allow it at all and a special use would require a zoning hearing. He noted that the Board has suggested that billboard advertising signs be a special use within the Village of Indian Head Park, which would require a zoning hearing process before the Planning and Zoning Commission. A special use hearing would be conducted before the Planning and Zoning Commission with a recommendation to the Village Board on the matter. Counsel Ramello stated that if the applicants meets the various standards and requirements of the ordinance according to the process set forth, the applicant will be granted a special use permit for the billboard and if those requirements are not met the special use will not be granted unless the application is amended to comply with requirements of the ordinance. He further stated that the Highway Advertising Control Act regulates the distance between signs. Counsel Ramello noted in the State of Illinois billboard signs along Interstate Highways must be at least 500 hundred feet apart and the Village would be mirroring that requirement in the Village of Indian Head Park with the exception of multiple digital message signs which would have to be at least 1,000 feet apart. He noted that the proposed Village ordinance would also allow back to back or B-shaped signs along Interstate highways. These signs are on a monopole sign standard with two sign boards each facing a different direction.

Counsel Ramello stated that standard billboards range in size from 20 by 60 feet to about 10 feet by 36 feet. The Illinois Highway Advertising Control Act of 1971 which regulates billboards allows up to 1,200 square feet in Cook County. He noted that other counties only allow 800 square feet for billboards. Counsel Ramello stated that Skytech Inc. will request from the Illinois Department of Transportation to allow for a billboard up to 1,200 square feet as allowed throughout Cook County and according to the Illinois Advertising Control Act. He noted there are no height restrictions placed on billboards in Illinois other than regulations set forth by local authorities, the Village is proposing a height limitation not to exceed 50 feet for billboards, there are regulations set forth in the ordinance for illumination as well as multiple message signs. Counsel Ramello stated that the proposed ordinance will allow LED or LCD digital signs also referred to as changeable electronic variable message signs with certain requirements for message displays.

Counsel Ramello noted that there are a couple of existing non-conforming billboard signs within the triangle area along the highway in Indian Head Park that have existed before the Village established regulations for signage. Those billboard companies will be required under the new ordinance to register with the Village to have a complete registry of signs located in the Village. He noted that sign companies will also be required to maintain the sign and paint it if the sign shows signs of deteriorating. Counsel Ramello stated that a permit process is set forth in the ordinance that establishes requirements to apply for a permit to install billboard signage, which includes an application, survey and structural drawings. He noted an appeal process is set forth in the ordinance should an applicant be denied a permit, a separate ordinance will be established to include various fees for billboard signs and each permit issued will be valid for a period of one year with an expiration date of July 1<sup>st</sup> of each year to be renewed annually to insure the sign companies are maintaining the signs according to the ordinances. Counsel Ramello stated that the ordinance also allows for a permit to be revoked in the event there are false statements made in the application or the sign is not in compliance with ordinances. The proposed ordinance also provides for a \$750.00 per day fine if the sign company violates the ordinance or fails to maintain the sign and one of the requirements of the ordinance for digital signs is that a contact person must be provided that is available 24 hours a day in the event the sign malfunctions and needs service.

Counsel Ramello stated that the Village is authorized to regulate highway advertising under the Federal Statute, Highway Beautification Act. He noted that the State of Illinois also passed the Illinois Highway Advertising Control Act. Section 7 of the Act expressly grants to local municipalities the right to regulate signs along Interstate highways.

Chairman Dennis Schermerhorn stated that it was previously mentioned by counsel that billboard signs are regulated within 660' by the State of Illinois and he asked why the Village would limit highway advertising signage to 330' from highways. Counsel Ramello stated that the Village is setting a distance of 330' due to size restrictions of signs and keeping those signs as close to the highway as possible and signage 660' from highways is intended more for open rural areas along highways.



Counsel Ramello also noted that the proposed ordinance has provisions to control lighting to limit the illumination, brightness or glare. Chairman Schermerhorn stated that counsel mentioned that signage would be limited to 800 square feet and the size of signs would be limited to 20 feet high by 50 feet wide. Counsel Ramello stated that 800 square feet for signage is the limit outside of Cook County. He noted that Tom Walsh, from Skytech, the Village's consultant, recommended to the Village that the ordinance be amended to allow for 1,200 square feet for highway advertising signage to comply with I.D.O.T. requirements within Cook County. Chairman Schermerhorn stated the reference in the ordinance regarding the Planning and Zoning Commission's actions on a special use permit states if the applicant meets all technical requirements of the ordinance, the Commission cannot do anything about it. Counsel Ramello stated that is correct and the Village must have objective standards. He added that the Commission cannot determine an outcome based on their own judgments or consider input from someone in the audience who might object. Counsel Ramello stated that decisions on highway advertising signage can only be decided based on objective criteria because someone cannot be censored for content on the signage due to 1<sup>st</sup> Amendment and right to speech.

Counsel Ramello stated that someone may oppose a sign in a location because they do not want a billboard in that location but the content on the sign cannot be regulated due to 1<sup>st</sup> Amendment rights and freedom of speech. He added that the Supreme Court has stated on numerous cases that someone cannot oppose a sign based on the message on the sign. Chairman Schermerhorn stated that the purpose of the Planning and Zoning Commission is to consider zoning matters and special uses for the best interest of the community but in this case the Commission would not be able to do anything about it. He added there are concerns that the same process would bleed over into the other zoning regulations. Counsel Ramello pointed out that the highway advertising sign regulations only pertain to this type of zoning matter due to 1<sup>st</sup> Amendment rights.

Commissioner Andrews stated the Commission cannot deny the type of advertising that is placed on the sign but who controls the obscene language that someone might publish on the sign. Counsel Ramello stated that there are only a few sign companies putting signs up along Interstate highways because they cost about \$150,000 to \$200,000 to install and an advertiser may pay \$5,000 per month so most objectionable advertising would be eliminated based on those facts. Counsel Ramello stated that sign companies are in the business to make money and they self regulate their own advertisers. He noted there was a billboard in Palatine that was advertising a gentlemen's club, people of Palatine objected and the sign was protected by the 1<sup>st</sup> Amendment. He added I.D.O.T. and Village Board's cannot get involved in telling someone what their message should be on the billboard.

Chairman Schermerhorn stated that the ordinance requires billboard companies to register with the Village. He stated there are concerns if someone pursues litigation against the Village for a sign on Village property because of objectionable advertising on the sign. Chairman Schermerhorn asked if the sign companies could provide indemnification against any claims based on messages on the billboards.

Counsel Ramello stated that insurance and bonding requirements are set forth in the ordinance but the Village cannot regulate advertising messages on highway advertising signs. Tom Walsh, from Skytech Inc., stated that he has been working with the Village on this project. He further stated that if there is a sign on Village property, items can be addressed in the lease agreement with the billboard company setting forth certain conditions. Tom Walsh stated that normal customary behavior in the billboard industry is that sign companies think very carefully when advertisers come to them because they do not want a spotlight on them. He noted that an organization, for example, P.E.T.A. can be very graphic and extreme with their ads and billboard companies are being sued by P.E.T.A. more than individuals suing landowners or communities because the billboard companies are not taking those ads.

Tom Walsh stated that the ordinance as drafted by Village counsel contemplates the State concerns that the Village does not spot zone which is a reason a zoning overlay section would be added. He noted that some sections of the Village ordinance would be more stringent than the State regulations. Chairman Schermerhorn asked if the existing billboards in the Village were granted by special uses. Mayor Andrews mentioned that the billboards may have been constructed prior to the incorporation of those areas into the Village.

Commissioner Ingram asked if the land owner or the billboard company would come before the Commission for this type of zoning matter. Counsel Ramello stated the ordinance states either the land owner or billboard company who may have an interest in the property may be the applicant on the petition for a special use. Commissioner O'Mally asked if there are any details on why the new billboard sign in the commercial area of the Village was taken down. Tom Walsh stated that many years ago there was a Sante Fe Speedway Sign at 70<sup>th</sup> Place and that sign held one of the three levels of a State permit -- a "Red Tag". When the State of Illinois adopted their billboard regulations pursuant to the Federal Act of 1971 they set three levels of permits: A red tag, blue tag and green tag relative to highway advertising signs. A green tag is issued when all State standards are met and the sign company then has to meet Village standards, blue tag means the sign was legally built at the time but it is now non-conforming and red tag means the sign was illegal and non-conforming and the only thing to do with a sign under that designation is to maintain it with repair without altering it. That billboard company took that red tag without the Illinois Department of Transportation approval and rebuilt the sign using a permit that does not allow a sign to be enlarged, remodeled or rebuilt. Tom Walsh stated that the matter was in the court system and the billboard company had to take down the face of the sign to stop further legal proceedings against them. Commissioner Yelnick asked how a billboard sign could be constructed without all of the proper approvals. He added that he is in favor of a Village trying to generate revenue and hopes that in the future a billboard company would follow all of the requirements to get a proper permit.

Mayor Andrews stated that the billboard company that took over the Sante Fe sign represented to the Village at that time that they had the authority and all proper permits were obtained that were needed to construct the sign. He added that the billboard company entered into an agreement with the Village which was reviewed by previous Village counsel and the sign company even paid an impact fee to erect the billboard.

Mayor Andrews stated that the I.D.O.T. permit the billboard company had was not the permit they needed to construct a new billboard, the sign went up at their own risk, the sign company represented to the Village they had a legal right to build a sign and even paid a significant sum of money as an impact fee to construct the sign.

Chairman Schermerhorn stated that the letter entered into the record this evening from counsel for the Roofers Joint Apprenticeship Training Committee (J.A.T.C.) mentioned that a permit was applied for by the J.A.T.C. to erect multiple billboards and they were approved to erect only a single billboard. Chairman Schermerhorn stated that there have been no applications that have been presented to the Planning and Zoning Commission on this matter or a denial of the request. He noted that certainly the request would be a variance and a zoning process.

Counsel Ramello stated that Village records were checked and no zoning applications for a billboard were submitted by the Roofers Committee to the Village, no permits were issued for billboards and there were no denials of permits for billboards on this matter. He added there is no record of the Roofers Committee requesting a text amendment, special use or building permit to erect a billboard on their site. Counsel Ramello stated there is a possibility that the Roofers Committee may have requested approval from I.D.O.T. for a billboard and their attorney may have incorrect information about approval for a billboard sign from the Village.

Diane Andrews stated that she is concerned about obscene language or advertising that may be placed on billboards. Tom Walsh stated that Cook County passed an ordinance that regulated adult uses with some restrictions that does not specifically pertain only to signs but certain zoning districts where those types of businesses can be located.

Ray Palys, owner of Medallion Enterprises at 7000 South Wolf Road, stated that there is an existing CBS sign on his property along an easement area. CBS owns the sign and has been operating on that site for at least 15 years, they are not paying revenue for using his property and he is paying taxes on that parcel. Mr. Palys stated that he bought 7000 Wolf Road about 3 years, the sign was existing on the property at that time and there should be some revenue coming back to the property owner. Counsel Ramello stated when the property was acquired a title insurance policy should have been issued and if the sign company recorded an interest in the property that easement would be shown on the title policy. He noted that if the sign company only obtained a license to put up the sign at the time, that is often not recorded against the real estate and it is up to a property owner to determine the authority a sign company has to place a sign on their property.

Mayor Andrews stated that there are existing billboards in the community already and although the message content on the sign cannot be regulated the ordinance does set forth a procedure with criteria to be met to allow for billboard signs. He noted he has lived in town for 30 years and the billboard sign Mr. Palys mentioned has been in existence for at least 20 years with no objectionable content.

Chairman Schermerhorn entertained a motion to submit a recommendation to the Village Board to accept the petition as presented for approval. Commissioner Ingram moved, seconded by Commissioner Costelloe, to submit a recommendation to the Village Board to amend Title 17, Zoning of the Indian Head Park Municipal Code for a text amendment providing for regulations of highway advertising signs in B5 and B6 Business Districts. Carried by unanimous roll call vote (6/0/0).

*Aye: Chairman Schermerhorn, Commissioners: Andrews, Costelloe, Ingram O'Malley, Yelnick*

*Nay: None*

Chairman Schermerhorn stated that a report will be presented to the Village Board at the next meeting. Mayor Andrews requested that the Planning and Zoning Commission continue the special use public hearing regarding Petition #175 to the June 1, 2010 zoning meeting.

**2. Petition # 175 - A public hearing regarding a special use application for a highway advertising sign at 11308 West 70<sup>th</sup> Place, Indian Head Park.**

Commissioner Andrews, moved by Commissioner Ingram, to continue the public hearing regarding Petition #175 to the Tuesday, June 1, 2010 zoning meeting. Carried by unanimous roll call vote (6/0/0).

*Aye: Chairman Schermerhorn, Commissioners: Andrews, Costelloe, Ingram O'Malley, Yelnick*

*Nay: None*

**PUBLIC COMMENTS FROM THE AUDIENCE**

Chairman Schermerhorn noted that there were no public comments from the audience regarding both zoning petitions presented this evening. One letter was read into the public record.

**REVIEW AND APPROVAL OF PLANNING AND ZONING COMMISSION  
MEETING MINUTES (DISCUSSION AND A POSSIBLE VOTE MAY TAKE  
PLACE)**

**★ Approval of Minutes of the last meeting of the Planning and Zoning  
Commission**

Upon review of the minutes presented, Commissioner Costelloe moved, seconded by Commissioner Ingram, to approve the meeting minutes, as amended. Carried by unanimous voice vote (6/0/0).

## **ADJOURNMENT**

There being no further business to discuss before the Commission, Commissioner Andrews moved, seconded by Commissioner Costelloe, to adjourn the meeting at 9:35 p.m. Carried by unanimous voice vote (6/0/0).

Respectfully Submitted,  
Kathy Leach, Recording Secretary  
Planning and Zoning Commission